

THE HON'BLE MR JUSTICE S. ANANDA REDDY

WRIT PETITION NO: 6764 of 2005

DATED:27.07.2005

Between:

A.Ilaiah, S/o.Kumaraiah, aged 47 years,

Occ: Driver, E.No.251690, R/o.10-4-5317/1,

Narsapur, Siddipet, Medak District.

.....PETITIONER

AND

APSRTC Rep. By its Divisional Manager,

Madak Region, Sangareddy, Medak District

And others.

.....RESPONDENTS

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ORDER

This Writ Petition is filed by the petitioner-workman aggrieved by the award passed by the Labour Court-II, Hyderabad in I.D.No.118 of 2002, dated 11.6.2004.

The petitioner-workman was appointed as a driver in the respondent-Corporation in the year 1988 after due process of selection. However, on certain charges, an order of removal was passed by the second respondent on 28.6.2001. The said order of second respondent was subject-matter of an appeal before the first respondent, who granted partial relief by ordering reinstatement of the petitioner as a fresh driver. Still not satisfied with the said relief, the petitioner-workman invoked the jurisdiction under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') by

approaching the Labour Court. The Labour Court instead of considering and passing the order on merits, went in tangent holding that as the petitioner-workman was given partial relief by the appellate authority and if he is allowed to raise an industrial dispute under Section 2-A of the Act, as such benefit was not available if similar punishment is imposed by the original authority, therefore, it amounts to discrimination and the petitioner cannot raise the industrial dispute and accordingly dismissed the application as not maintainable. Aggrieved by that, the present writ petition is filed.

The learned counsel for the petitioner contended that the Labour Court is not competent to go into the aspect of discrimination and violation of any of the constitutional provisions. The limited powers conferred on the Labour Court is only to examine the case of the petitioner-workman, who approached it, whether it comes within the ambit of Section 2-A of the Act and whether such a workman is entitled to any relief under Section 11-A of the Act and not beyond. But, however, the Labour Court instead of examining the said limited scope of the powers, went into the issue of discrimination and held that the application itself is not maintainable. The said action of the Labour Court is illegal and without jurisdiction.

The learned Standing Counsel, however, sought to sustain the order stating that the petitioner-workman has already been given relief by the first appellate authority by ordering reinstatement as a fresh driver and therefore, there is no justification to have any grievance to raise any industrial dispute.

Heard both sides and considered the material on record.

A perusal of the impugned order clearly shows that the Presiding Officer of the Labour Court went in tangent into the constitutional provisions to hold that there is a discrimination if the application of the petitioner is entertained under Section 2-A(2) of the Act. The Labour Court has exceeded its jurisdiction in going into the constitutional aspects as it is intended only to examine the case of the petitioner-workman in terms of Section 2-A (2) and Section 11-A of the Industrial Disputes Act and not beyond and if the petitioner is entitled for any relief in terms of above two provisions, it is open to the Labour Court to exercise its discretion and pass appropriate orders and not otherwise.

Under the above circumstances, the impugned order is set aside and the matter is restored to the file of the Labour Court-II, Hyderabad, with a direction to rehear the

mater afresh and pass appropriate orders in accordance with law.

The writ petition is allowed accordingly. No costs.

S. ANANDA REDDY,J

27th JULY, 2005

Note: Issue C.C. in three days.

(b/o)

tsr.